

ENVIRONMENTAL COOPERATION AGREEMENT

The Government of the United States of America and the Government of Peru, hereinafter referred to as "the Parties":

RECOGNIZING that cooperation is a principal means to contribute to the efforts of the Parties to ensure that trade and environmental policies are mutually supportive, and to promote the optimal use of resources in accordance with the objective of sustainable development;

EMPHASIZING the importance of building capacity for environmental stewardship in concert with the strengthening of trade and investment relations as reflected in the United States-Peru Trade Promotion Agreement;

CONVINCED of the importance of promoting all possible forms of cooperation to protect, improve and preserve the environment, including the conservation and sustainable use of natural resources, in the context of achieving their sustainable development objectives;

ACKNOWLEDGING that the broad participation of civil society is important for achieving effective cooperation;

AFFIRMING their political will to further strengthen the long and productive history of cooperation between these governments and to further strengthen and demonstrate the importance attached by the governments to cooperation on environmental matters;

Have agreed as follows:

ARTICLE I

Objective

The objective of this Agreement is to establish a framework for enhancing bilateral and/or regional environmental cooperation between the Parties aimed at protecting, improving and preserving the environment, including the conservation and sustainable use of their natural resources.

ARTICLE II

Mechanisms for Cooperation

Cooperation developed under the Agreement may occur through bilateral and/or regional activities such as, but not limited to:

- (a) exchanging of delegations, professionals, technicians and specialists from the academic sector, nongovernmental organizations, industry and the governments, including study visits, to strengthen the development, implementation and assessment of environmental and natural resource policies, practices and standards;
 - (b) organizing conferences, seminars, workshops, meetings, training sessions and outreach and education programs;
 - (c) developing programs and activities, including technological and practical demonstrations, applied research projects, studies and reports;
 - (d) facilitating partnerships, linkages or other new channels for the development and transfer of knowledge and technologies among representatives from academia, industry, intergovernmental and nongovernmental organizations and government to promote the development and/or exchange of best practices and environmental information and data likely to be of interest to the Parties;
 - (e) collecting, publishing and exchanging information on environmental policies, laws, standards, regulations, indicators, national environmental programs and compliance and enforcement mechanisms; and,
- (0 any other forms of environmental cooperation on which the Parties may agree.

ARTICLE III

Participation in and Operation of the Environmental Cooperation Commission

1. The Parties shall participate in an Environmental Cooperation Commission (the "Commission"). The Commission shall comprise

representatives of each country for which an environmental cooperation agreement providing for Commission participation is in force between the United States and a country in the Andean region ("Cooperation Agreement Country"). Each Party shall designate a senior government official from its relevant national authority to serve as its representative on the Commission.

2. The Commission shall be responsible for:
 - (a) establishing priorities for cooperative activities;
 - (b) developing a Work Program as described in Article IV, in accordance with those priorities;
 - (c) examining and evaluating cooperative activities;
 - (d) making recommendations and providing guidance to Cooperation Agreement Countries on ways to improve cooperation; and,
 - (e) undertaking such other activities on which Cooperation Agreement Countries may agree.
3. The Commission at its meetings may conduct a Dialogue for Cooperation on Environmental Matters, on matters of mutual interest to Cooperation Agreement Countries, in order to exchange information and views on domestic and/or international environmental issues.
4. The Commission shall meet within one year after its establishment and as appropriate thereafter. The Commission shall meet in the country of the representative that is chairing the Commission, unless the Commission decides otherwise.
5. The Chair of the Commission shall rotate annually, in English alphabetical order of Cooperation Agreement Countries.
6. Each Party shall notify each other Cooperation Agreement Country of its relevant national authority upon entry into force of this Agreement. A Party may change its relevant national authority by notifying the Commission.
7. All decisions of the Commission shall be taken by consensus, unless the Commission decides otherwise. These decisions shall be made public by the Commission, unless it decides otherwise, or as otherwise provided in this Agreement.
8. A Party may meet with other Cooperation Agreement Countries between meetings of the Commission to analyze and promote the implementation of this Agreement and to exchange information on the progress of cooperative programs, projects and activities. Each Party shall identify a Coordinator from its relevant national authority referred to in paragraph 1 to serve as a general point of contact for cooperative work under this Agreement.
9. In discharging its functions, the Commission shall take into account the comments and recommendations it receives from the environmental affairs

council established under a trade promotion agreement in force between the Government of the United States of America and the Government of a Cooperation Agreement Country regarding cooperative environmental activities undertaken through the Commission. The Commission shall also periodically inform any such environmental affairs council on the status of such activities.

ARTICLE IV

Work Program and Cooperation Areas

1. The Commission shall define the Work Program, establishing specific goals and objectives and areas for cooperation in a way that reflects national priorities of each Cooperation Agreement Country. In doing so, the objectives, formulation, and design of cooperative activities shall be as agreed by the Cooperation Agreement Countries participating in the given activity, taking into account, as appropriate, regional and national environmental agendas. The Parties shall coordinate at all stages of cooperative activities undertaken pursuant to the Work Program to ensure the participation of all appropriate entities.

2. The Work Program may include short-, medium- and long-term bilateral and/or regional projects and activities, such as, but not limited to:

- (a) strengthening national and local environmental governance and management, as well as the capacity to develop, implement, monitor and enforce environmental and natural resource laws, regulations and policies;
- (b) strengthening the conservation and sustainable use of natural resources;
- (c) promoting mechanisms to support the conservation and sustainable use of biological diversity such as the control of invasive alien species;
- (d) developing and promoting incentives, including economic incentives and instruments, and other flexible and voluntary mechanisms;
- (e) promoting the development, transfer, use, proper operation and maintenance of cleaner, more efficient production processes and technologies, including those that reduce toxic chemical emissions;
- (f) strengthening the capacity to implement multilateral environmental agreements to which the Parties to this Agreement are party;
- (g) promoting the development and implementation of domestic initiatives on environmental goods and services;

- (h) building capacity to promote public participation in environmental and natural resources decision-making and enforcement, including public access to information;
- (i) strengthening capacity to review and evaluate the environmental effects of trade agreements among those Cooperation Agreement Countries wishing to do so; and
- (j) increasing access to cleaner energy, including renewable energy sources.

3. In developing cooperative programs, projects and activities, the Commission should develop appropriate performance measures and indicators to assist in examining and evaluating the progress of specific cooperative programs, projects and activities.

4. Each Party shall periodically share with its public information regarding the progress of cooperative activities. The Commission shall seek and consider, as appropriate, input from relevant local, regional or international organizations regarding how best to ensure that it is accurately monitoring the progress of cooperative activities.

5. In order to avoid duplication and to complement ongoing and future environmental cooperation undertaken outside the context of this Agreement, the Commission shall endeavor to develop the Work Program in a manner compatible with the environmental work of other organizations and initiatives in which the Cooperation Agreement Countries have an interest. As part of the Work Program, the Commission shall seek to develop proposals and other means to complement and enhance the work of these organizations and initiatives.

ARTICLE V

Resources

1. In developing the Work Program, the Commission shall seek to identify: the mechanisms and sources by which cooperative activities may be financed and the adequate allocation of human, technological and organizational resources required for the effective implementation of the cooperative activities.

2. The following mechanisms for funding and other resources may be considered for environmental cooperation:

- (a) cooperative activities jointly supported by financial, human, technical or other resources of the Parties as agreed by them;
- (b) cooperative activities in which each institution, organization or agency provides financial, human, technical or other resources and assumes the costs of its own participation;

- (c) cooperative activities financed or otherwise supported or assisted, as appropriate, by private institutions, foundations or public international organizations, including through ongoing programs; or,
 - (d) any combination of the above.
3. Unless otherwise agreed, each Party shall assume the costs of its participation in the work of the Commission.
4. All cooperative activities under this Agreement shall be subject to the availability of appropriated funds and of human and other resources, and to the applicable domestic laws and regulations of each Cooperation Agreement Country.

ARTICLE VI

Opportunities for Public Participation

1. In defining the Work Program, the Commission shall provide for public participation in the development and implementation of the activities and projects contemplated in the Program.
2. Unless the Commission agrees otherwise, it shall include a public session in the course of its meetings.
3. The Commission shall promote the development of opportunities for public participation in the development and implementation of cooperative environmental activities. Each Party shall solicit and take into account, as appropriate, the views of its public with respect to the Work Program and should review and respond to such communications in accordance with its own domestic laws and procedures. Each Party shall make these communications available to Cooperation Agreement Countries and to the public, unless that Party demonstrates a legal basis for not doing so. Each Party shall also consider the establishment of a national advisory committee comprised of, among others, representatives from nongovernmental organizations, academia, industry, indigenous groups, subnational governments and private citizens to advise its Commission representative regarding the Work Program.
4. The Commission shall encourage and facilitate, as appropriate, direct contacts and cooperation among government agencies, multilateral organizations, foundations, universities, research centers, institutions, nongovernmental organizations, private sector firms and other entities, and the conclusion of arrangements among them for the conduct of cooperative activities under this Agreement.

ARTICLE VII

Facilitation of Technical Assistance

1. Each Party shall facilitate, in accordance with its laws and regulations, duty-free entry for materials and equipment provided pursuant to cooperative activities provided for under this Agreement.
2. Each Party shall facilitate the entry of equipment and personnel related to this Agreement into its territory, subject to its laws and regulations.
3. In the framework of the cooperative activities provided for under this Agreement, commodities or services acquired in the territory of Peru by the United States or their agents, that were financed with United States assistance funds, as well as imports of commodities acquired with such funds, shall be exempt from taxation, including value-added taxes (VAT) and customs duties, in accordance with the law of Peru. If those commodities or services are not in fact exempted from VAT or customs duties, the Government of Peru shall reimburse to the Government of the United States of America or its agents the amount of VAT and customs duties paid, following the procedures established in its law. Commodities include, among others, materials, articles, supplies, goods or equipment.

ARTICLE VIII

Technical and Confidential Information and Intellectual Property

1. Except as provided below, all technical information obtained through the implementation of this Agreement will be available to Cooperation Agreement Countries.
2. The Parties do not foresee the creation of intellectual property under this Agreement. In the event that intellectual property that can be protected is created, the Parties shall consult with each other to determine the allocation of the rights to that intellectual property.
3. In the event that a Party deems information to be confidential under its laws, or identifies in a timely fashion information furnished or created under this Agreement as "business-confidential", each Party and its participants shall protect such information in accordance with its applicable laws, regulations and administrative practices. Information may be identified as "business-confidential" if a person having the information may derive an economic benefit from it or may obtain a competitive advantage over those who do not have it, the information is not generally known or publicly available from other sources, and the owner has not previously made the information available without imposing in a timely manner an obligation to keep it confidential.

ARTICLE IX

Entry into Force, Withdrawal, Amendments

1. This Agreement shall enter into force thirty days after an exchange of notifications that the Parties have completed the internal requirements necessary for its entry into force.
2. The Agreement shall remain in force indefinitely. Either Party may withdraw from the Agreement upon six months' written notice to the other Party. Unless otherwise agreed, such withdrawal shall not affect the validity of any ongoing activities not fully completed at the time of termination.
3. The Agreement may be amended by written mutual consent of the Parties.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE at Lima, in duplicate, this _____/14 day of _____, 2006,
in the English and Spanish languages, gothtexts being equally auth ntic.

James Curtis Strick Memorandum

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA: FOR THE GOVERNMENT OF PERU: